IMPORTANT GST UPDATES

Issued in case of M/s Orient Cement Limited by Authority for Advance Ruling, Karnataka
Advance Ruling No. KAR ADRG 27/2023 | Date: 24-08-2023

Ruling

Distributing gold coins / white goods to dealers under promotional schemes not 'gift' and eligible for ITC.

Observations & Findings

M/s. Orient Cement Limited is engaged in the manufacturing of Ordinary Portland Cement (OPC) and Pozzolona Portland Cement (PPC). They employ various marketing and distribution strategies to promote their products and boost sales. One of their key strategies involves offering target/performance-based discount schemes and white goods schemes to their dealers. These schemes incentivize dealers to achieve specific sales targets, thereby helping the company meet its sales objectives. The applicant has sought an advance ruling to know whether giving gold coins and goods to dealers who meet purchase targets is considered a gift or a business asset transfer, impacting Input Tax Credit (ITC) and GST, and whether it qualifies as a supply under the CGST Act, 2017.

The applicant has provided details about their promotional schemes, such as the "Monthly/Quarterly Discount Scheme," where dealers from Karnataka receive a discount based on the quantity of OPC purchased. At the end of the quarter, the company purchases gold coins equivalent to the total discount credited to the dealer's account and distributes them to the dealer as per the scheme terms. The company claims Input Tax Credit (ITC) on the GST paid for these gold coins.

The applicant argues that the distribution of gold coins and white goods should not be considered a permanent transfer of business assets, as this restriction applies only to capitalized assets, not to revenue expenditure. Furthermore, they contend that this distribution should not be considered a supply under Section 7 of the CGST Act since there is no consideration received by the applicant for these items.

The ruling authority examines the promotional and incentive schemes and determines that the applicant is indeed supplying goods to dealers as an incentive for achieving sales targets, and these arrangements are part of a pre-established scheme. It is emphasized that this is not a simple transfer of gold or white goods but a specified quantity based on the terms and conditions of the scheme documents. The quantity of goods provided is linked to the marketing targets achieved by the dealers. Therefore, the achievement of these marketing targets can be seen as non-monetary consideration paid by dealers in exchange for the supply of gold and white goods. The ruling authority also states that even if these transactions do not fit the traditional definition of consideration, the goods are permanently transferred to the dealers, and ITC has been availed on these goods.

Based on these considerations, the ruling authority issues the following rulings:

- The obligation of the applicant to provide gold coins and white goods to dealers upon achieving stipulated purchase targets during the scheme period is not regarded as a "gift," and Input Tax Credit (ITC) will not be restricted.
- The obligation to provide gold coins and white goods to dealers upon achieving stipulated purchase targets during the scheme period is considered a "permanent transfer or disposal of business assets where ITC has been availed on such assets." Therefore, it qualifies as a supply, even if made without consideration, and is subject to GST under Schedule-I of the CGST Act, 2017.